THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24789 of 2002

Dated:29.08.2007

Between

V.S.Ramachandran

.....Petitioner

and

National Institute of Mentally Handicapped, rep., by its Director.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.24789 of 2002

ORDER:

This writ petition has been filed seeking a Mandamus to declare the action of the respondent in not considering the case of the petitioner for promotion to the post of Accountant/Office Superintendent-cum-Accountant while considering the candidature of number of Juniors, who do not have any experience, which is also an essential requirement, on the ground that the petitioner is not a graduate, as arbitrary and illegal.

It appears that the petitioner was appointed as LDC (Typist) in the respondent-institution with effect from 1.10.1984. Subsequently his services were regularized in the said post in the year 1986 and he was

further promoted to the post of UDC (Admn) in the year 1990. The petitioner worked in the Accounts Department. While working as LDC from 1984 to 1990 and from 1990 to 1998 he looked after the work of Establishment and Personnel Department even after promotion to the post of UDC (Admn). It is the grievance of the petitioner that by the time his turn was matured for being promoted to the post of Office Superintendent-cum-Accountant, two essential requirements have been stipulated to become eligible for consideration i.e., (i) Graduation from recognized University (ii)Minimum of 5 years experience in Office Administration and Accounts in establishment and administrative matters. According to the petitioner, though he is not a graduate, some of juniors to him who were graduates and have not put in minimum of 5 years experience in Office Administration and Accounts, which is one of the essential conditions for promotion to the post of Office Superintendent cum

Accountant, were considered for promotion. It is his case that even though he is not a graduate, he has more than 5 years of service in the Office Administration in Establishment and account matters.

The respondent filed a detailed counter denying the allegations made by the petitioner. It is stated that NIMH is a registered society. The Executive Council is the competent authority to frame rules for the staff of the NIMH. Accordingly, the Executive Council has approved the revised rules for the post of Accountant and Office Superintendent-cum-Accountant at its sixty second meeting held on 2.1.2002. As per the said rules, for recruitment to the post of Accountant and Office Superintendent cum Accountant, the essential qualification is a Graduate from a recognized University and desirable qualification is working knowledge and minimum five years experience in office administration/accounts and establishment

matters. As there are two vacancies in NIMH, one at Secunderabad and another at New Delhi, notification dated 3.5.2002 calling for applications from the eligible internal candidates was issued. Since the petitioner did not satisfy the criteria he was not considered for the purpose of promotion to the said post. In fact, two candidates are selected. A.Venkateswara Rao for the post of Accountant at NIMH, Secunderabad and C.Siddeshwar for the post of Office Superintendent cum Accountant at Model School for Mentally Deficient Children, New Delhi and both of them have more than ten years experience, apart from the qualification of graduation. Therefore, the writ petition may be dismissed.

Heard both sides.

Perused the material made available on record. The rules made and approved by the Executive Council on 2.1.2002 are not in question. No reply is filed by the petitioner to

the counter whereunder it was asserted that two persons were selected one at Secunderabad and another at New Delhi and they have more than 10 years of experience. The allegations made by the petitioner pales into insignificance. Further, the petitioner has not made any specific allegations against any particular individual to show that he is junior to him and he had lesser experience than him and was considered for the said post. The only grievance of the petitioner is that before him, many people were earlier promoted to the post of Office Superintendent cum Accountant though they are not graduates and at that time, the graduation was not a must. When his turn was matured for consideration, these rules have come into existence. Therefore, he is denied promotion. May be in a given case, it may happen. Unless and until the rules made by the Executive Council are declared as invalid, the petitioner cannot claim promotion as a matter of right or charity. Writ

petition is devoid of merits and is liable to be dismissed.

Writ petition is accordingly dismissed. No costs.

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29-08-2007

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